

December 16, 2003

The Honorable Tommy Thompson  
Secretary of Health and Human Services  
Department of Health and Human Services  
Washington, D.C. 20201

Dear Secretary Thompson,

I am writing to express my serious concerns about the article in today's *Wall Street Journal* indicating that the FDA has contacted mail carriers and major credit card companies, including Visa USA, Inc. and MasterCard International, to enlist their assistance in obtaining records of consumers' private prescription drug transactions.

On December 4, 2003, President Bush signed into law the Fair and Accurate Credit Transactions Act (the "FACT Act"), which contains landmark medical privacy provisions. This legislation was sent to the President after receiving overwhelming bipartisan support in Congress, including a 379-49 vote in the House and unanimous consent in the Senate. It is disturbing that the FDA would so quickly cast aside the medical privacy rights of consumers in its headlong rush to achieve its policy goals.

The FACT Act establishes for the first time strong medical privacy provisions as part of consumer credit law. In particular, the new law "blacks out" the sharing of medical information so that banks, credit card companies, and their affiliates cannot use it against consumers.

As the main author of these medical privacy provisions contained in the FACT Act, I believe that the message is clear: Americans are guaranteed that their medical records will not be shared without their prior approval. If credit card firms comply with the FDA's request, I believe they would be violating both the letter and spirit of the new law.

Accordingly, I strongly urge you to review this matter before the FDA moves forward with this plan to pressure credit card companies to share this most sensitive, private consumer information.

Sincerely,

Rahm Emanuel  
Member of Congress

cc: Hon. Mark McClellan, FDA Commissioner